

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

EDUARDO RAMIREZ

Plaintiff,

VS.

R. J. CORMAN RAILROAD GROUP, LLC,
R. J. CORMAN RAILROAD SERVICES,
LLC and R. J. CORMAN RAILROAD
COMPANY/MATERIAL SALES, LLC,

Defendants.

CIVIL ACTION NO. _____
(State Court No. 2020DCV3282)

DEFENDANT'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant R. J. Corman Material Sales, LLC (“Defendant” or “Material Sales”) removes this action brought by Plaintiff Eduardo Ramirez (“Plaintiff”) in the County Court at Law 3, El Paso County, Texas, and states:

STATEMENT OF THE CASE

1. Plaintiff filed his Original Petition (the “Original Petition”) on October 9, 2020 in the County Court at Law 3, El Paso County, Texas, where his lawsuit was assigned Cause No. 2020SCV3282 (“State Court action”).

GROUND FOR REMOVAL – DIVERSITY JURISDICTION

2. This court has original jurisdiction in this cause pursuant to 28 U.S.C. § 1332 based upon diversity of citizenship between Plaintiff and Defendant. Removal is therefore appropriate pursuant to 28 U.S.C. § 1441(b).

3. Plaintiff is a resident and citizen of Texas. *See* Original Petition, at Section II.

4. Defendant is now and was at the time of the filing of Plaintiff's Original Petition, a Kentucky limited liability company with its principal place of business at 101 R. J. Corman

Drive, Nicholasville, Kentucky 40356. As such Defendant is not a citizen of the State of Texas. *See* 28 U.S.C. § 1332(c)(1).

5. Defendant R. J. Corman Railroad Services, LLC (“Railroad Services”) is now and was at the time of the filing of Plaintiff’s Original Petition, a Kentucky limited liability company with its principal place of business 101 R. J. Corman Drive, Nicholasville, Kentucky 40356.

6. Defendant R. J. Corman Railroad Group is now and was at the time of the filing of Plaintiff’s Original Petition, a Kentucky limited liability company with its principal place of business at 101 R. J. Corman Drive, Nicholasville, Kentucky 40356.

7. Defendants Material Sales and Railroad Services each have only one member and that is R. J. Corman Railroad Group, LLC which is now and was at the time of the filing of Plaintiff’s Original Petition, a Kentucky limited liability company with its principle place of business in Nicholasville, Kentucky. R. J. Corman Railroad Group, LLC is owned by the Richard J. Corman Living Trust (“Trust”), which is now and was at the time of the filing organized and existing under the laws of Rhode Island with a principle place of business in Nicholasville, Kentucky. All born and presently living beneficiaries of the Trust are individuals who are citizens of the Commonwealth of Kentucky. Also, the Richard J. Corman Living Trust consists of six trustees. Five of the six trustees are individuals (John Morris, Sandra Adams, Jay Richard Corman, Shawna Corman Bramblett, and April Corman Colyer), all of whom are citizens of the Commonwealth of Kentucky. The sixth trustee is R.J. Corman Railroad Trust Company, LLC, a limited liability company organized under the laws of the State of Rhode Island and no other state and having its principal office and place of business at 110 North Main Street, Nicholasville, Kentucky 40356. The members and managers of R.J. Corman Railroad Trust Company, LLC are, and at all times relevant to removal were, John Morris, Sandra Adams,

Jay Richard Corman, Shawna Corman Bramblett, and April Corman Colyer, who are all individuals and citizens of the Commonwealth of Kentucky.

8. All Defendants properly joined and served consent to the removal of this action.

9. The amount in controversy in this lawsuit exceeds \$75,000.00. According to his Original Petition, Plaintiff seeks monetary damages between \$100,000.00 and \$200,000.00. *See* Original Petition, at Section II.

10. Because the parties are diverse and the amount in controversy exceeds \$75,000.00, removal is proper on diversity grounds.

VENUE

11. Venue for this action is proper in the El Paso Division of the Western District of Texas because that is the district and division where the underlying state court action is pending. 28 U.S.C. § 1446(a).

REMOVAL IS TIMELY

12. Pursuant to 28 U.S.C. § 1446(b), a defendant must file a notice of removal within 30 days after service of the initial pleading if the case stated by the initial pleading is removable. Defendant received service of the Original Petition on November 12, 2020. This notice of removal is filed within 30 days of service and is therefore timely.

13. Defendants R. J. Corman Railroad Services, LLC and R. J. Corman Railroad Group, LLC have not been served with Summons or the Original Petition and have not waived service and therefore, are not required to consent to removal.

ATTACHMENT OF STATE COURT PLEADINGS

14. A complete copy of the state court file, including the docket sheet, is attached hereto and incorporated herein as Exhibit A.

NOTICE OF REMOVAL GIVEN TO STATE COURT AND OPPOSING COUNSEL

15. A Notice of Removal to Federal Court is being filed in the County Court at Law Number 3 of El Paso County, Texas on the date of this filing with the U.S. District Court for the Western District, El Paso Division. A copy of the Notice to state court is attached hereto and incorporated herein as Exhibit B. Concurrent with the filing of this Notice of Removal, Defendant is serving via CM-ECF and certified mail, return receipt requested, this notice upon Plaintiff's counsel.

JURY

16. Plaintiff has requested a jury in the underlying state court action.

CONCLUSION

THEREFORE, based on diversity grounds, Defendant respectfully removes *Eduardo Ramirez v. R. J. Corman Railroad Company/Material Sales, LLC et al.*, Cause No. 2020SCV3282, pending in the County Court at Law 3, El Paso County, Texas to this Honorable Court.

DATED: December 7, 2020.

Respectfully submitted,

SCOTTHULSE^{PC}
One San Jacinto Plaza
201 E. Main St., Suite 1100
P.O. Box 99123
El Paso, Texas 79999-9123
(915) 533-2493
(915) 546-8333 Telecopier

By: /s/ M. Blake Downey

ROSEMARY M. MARIN
State Bar No. 12982500
rmar@scotthulse.com
M. BLAKE DOWNEY
State Bar No. 24082933
bdow@scotthulse.com
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served electronically upon attorney for Plaintiff, Connie J. Flores, Flores, Tawney & Acosta, P.C., cflores@ftalawfirm.com, 906 N. Mesa Street, 2nd Floor, El Paso, Texas 79902.

/s/ M. Blake Downey

M. BLAKE DOWNEY